

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 1 Foster Care Financial Audit Requirements

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at public hearings to be held on January 15, 2002, and January 16, 2002, as follows:

January 15, 2002
Community Care Licensing Regional Office
100 Corporate Point, #350
(Entrance on Slausen)
Culver City, California

January 16, 2002
CDSS Office Building #9
744 P Street, Auditorium
Sacramento, California

The public hearings will both convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The CDSS will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facilities are accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the CDSS at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by telefax to the address/number listed below. All comments must be received by 5:00 p.m. on January 16, 2002.

The CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice and the proposed regulations are anticipated to be available online at <http://www.dss.cahwnet.gov/ord> by December 1, 2001. Additionally, all the information which CDSS considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below, including the Office of Management and Budget (OMB) Circular A-133 Compliance Supplement and the federal Department of Health and Human Services (DHHS) Supplement for Foster Care - Title IV-E funds.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

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CHAPTERS

Manual of Policies and Procedures (MPP) Division 11 (Administrative Standards for Public Social Services), Chapter 11-400 (AFDC-Foster Care Rates), Section 11-400 (AFDC-Foster Care Rates - Definitions), Section 11-402 (Group Home Rate Setting), Section 11-403 (Foster Family Agency Rates), and Section 11-405 (Fiscal and Financial Audits)

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, in accordance with Welfare and Institutions Code Section 11466.21, all group home and foster family agencies are required to submit independent financial audits as a condition of receiving an annual rate. Previously, CDSS policy determined that group home and foster family agency providers were vendors and not subrecipients of federal funds, in which CDSS regulations required the financial audit be conducted according to the Government Auditing Standards of the Comptroller General of the United States, commonly known as the Yellow Book. This audit standard is less in scope than the audit standard required for subrecipients expending combined federal funds of \$300,000 and greater.

In a letter dated April 3, 2001 from the DHHS, Administration for Children and Families (ACF), the CDSS was notified that group home and foster family agency providers are not vendors and instead, are subrecipients of federal funds. As subrecipients of federal funds, federal regulations require group home and foster family agency providers to comply with the federal OMB Circular A-133 audit requirements. Existing CDSS regulations only require that group home and foster family agency providers obtain a Yellow Book audit and permits these providers to have audits conducted according to the standards established by the federal OMB Circular A-133, either voluntarily or to meet the requirements of other government agencies.

In an April 19, 2001 letter from DHHS, ACF, the CDSS was informed that the type of audit California has required under Welfare and Institutions Code Section 11466.21 does not meet the federal audit standard as required under federal OMB Circular A-133. Accordingly, all federal Foster Care Program funding received by California group homes and foster family agencies is at serious risk. In addition, California's current audit and operational costs under Welfare and Institutions Code Section 11466.21 would not be allowable for federal claiming purposes.

Significant changes in these regulations include: 1) the requirement that all group home and foster family agency corporations who expend \$300,000 or more in combined federal funding in any year adhere to the audit standards contained in OMB Circular A-133; 2) the requirement for the CDSS to issue written management decisions regarding the findings in the providers' OMB Circular A-133 audit reports; 3) the establishment of an appeal process for disputed management decisions concerning disallowed costs; and 4) the creation of a rate reestablishment process for foster family

agencies.

COST ESTIMATE

1. Costs or Savings to State Agencies: No fiscal impact exists because this regulation does not affect any State agency or program. These regulations do not impose additional costs to local assistance funds, as the maximum amount paid for audits will remain unchanged.
2. Costs to Local Agencies or School Districts: No additional costs or savings because this regulation makes only technical, nonsubstantive or clarifying changes to current law and regulations.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: None.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state mandated local costs in these regulations which require state reimbursement under Section 17500, et seq. of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is aware of potential cost impacts that a representative private person or business may incur in reasonable compliance with the proposed action. Please see the INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW for an explanation of the potential cost impacts that a representative private person or business may incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

The CDSS finds that small businesses in two different industries will be impacted by the adoption of these regulations. The CDSS finds that these regulations may have an economic impact on small businesses operating group home programs or foster family agencies. Some of these businesses will be negatively impacted, which may be subject to more stringent audit requirements requiring operational changes in fiscal reporting and higher audit fees. This impact is partially offset in some cases, where the additional audit costs are absorbed by a partial reimbursement provision available to certain eligible providers. Operational changes expected might be insignificant as providers are already required to have audits conducted.

Certified Public Accountants that would be engaged to conduct the required audits may be positively impacted with a greater demand for services and larger revenues resulting from higher audit fees.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments may create jobs or expand businesses in the State of California. The adoption of the proposed amendments may not result in the elimination of existing businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Sections 11460(b), 11463, 11466.21, and 11466.22, Welfare and Institutions Code. Subject regulations implement and make specific Public Laws 98-502 and 104-156; OMB Circular A-122, Cost Principles for Non-Profit Organizations; OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; Government Auditing Standards of the Comptroller General of the United States (Yellow Book); and DHHS, ACF letter dated April 19, 2001.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person:	Anthony J. Velasquez	(916) 657-2586
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CDSS REPRESENTATIVE REGARDING SUBSTANCE OF THE PROPOSED REGULATION

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Backup:	Sharon Ferrante	(916) 274-0445

AGENDA ITEMS FOR THESE PUBLIC HEARINGS - January 15, 2002 and January 16, 2002

ITEM #1	ORD #0501-11	Foster Care Financial Audit Requirements
ITEM #2	ORD #1000-20	Adult Day Care / Adult Day Support Regulations
ITEM #3	ORD #0901-20	Direct Deposit
ITEM #4	ORD #0801-18	CalWORKs: Inter-County Transfers